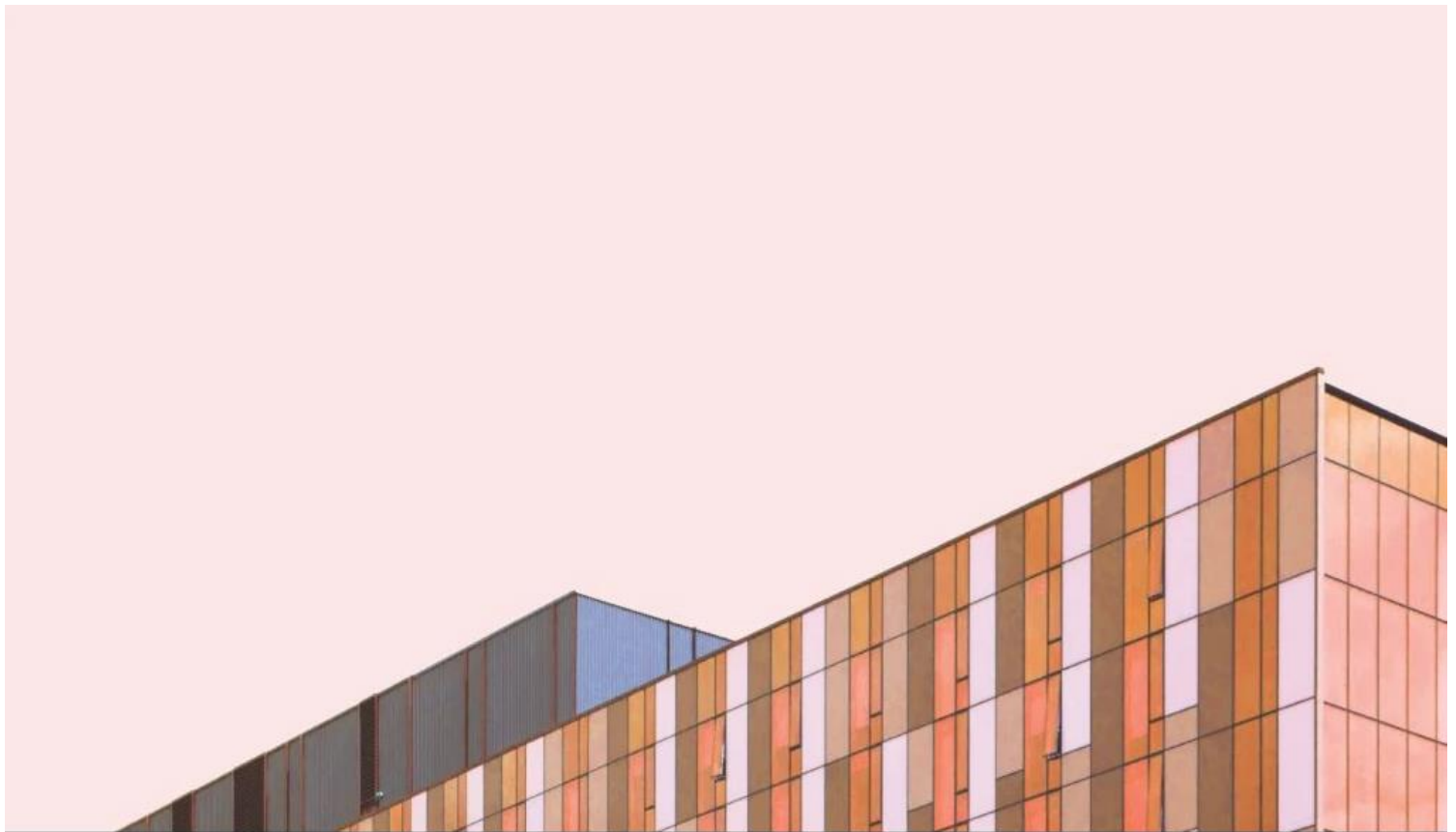


# A Guide to Handling Possession Proceedings



Commercial Property Department

# Introduction

If you are a residential landlord who wishes to recover possession of your property, and/or rent arrears from a tenant, we have put a brief guide to explain the process simply and clearly.

Unless a tenant leaves voluntarily, a landlord must obtain a court order for possession to evict the tenant. Failure to do so can result in very severe financial penalties, so it is imperative that you seek legal advice.

Under certain circumstances, the landlord can use an accelerated possession procedure to obtain an order for possession from the local county court. This is usually without the need and expense of a court hearing.



## These acceptations apply to a residential property when:

1. It has been let under a written Assured Shorthold Tenancy (AST).
2. Any tenancy deposit taken from the tenant has been properly put into a recognised deposit scheme.
3. A valid (no grounds) notice giving two months' notice has been served on the tenant in compliance with section 21 of the Act.
4. The landlord simply wants an order for possession to recover the property.

However, problems often arise which can often mean a couple of month's unnecessary delay in the recovery of possession of the property, whilst those problems are rectified.

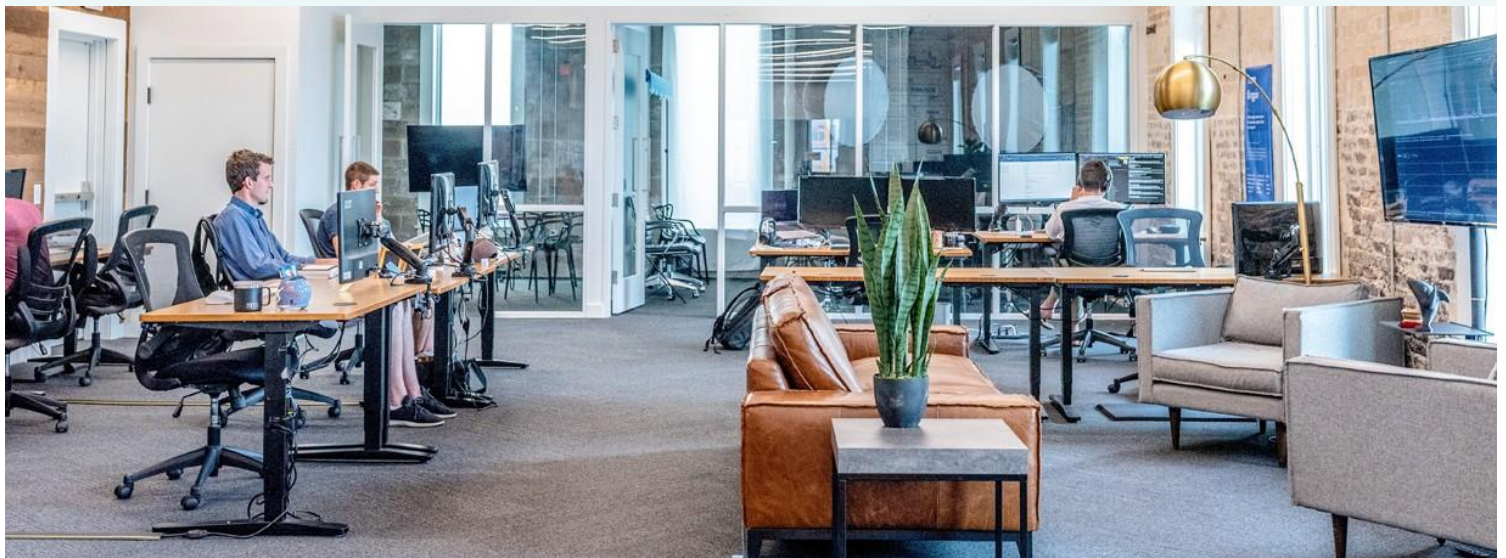
## To avoid this, ensure that:

- The section 21 notice used is still valid.
- Check that you have registered the tenancy deposit correctly.
- Take care in dealing with your tenancy deposit to ensure any deficiencies are rectified before issuing court proceedings for possession.

Failing to register the deposit could prove costly if the tenant takes the matter to court. You could be ordered to immediately repay the deposit in full and make a penalty payment of three times its value for failing to register it correctly in the first place.

## When addressing a normal possession procedure you should act as follows:

1. Provide the tenant with a notice detailing one or more of the grounds specified in the Act (for example rent arrears, other breaches of the tenancy or anti-social behaviour) for your choice.
2. If the tenant does not resolve the default specified in that notice, you may issue court proceedings for an order for possession and (where appropriate) a judgment for any arrears of rent.
3. Once this is under way, be sure to collect and prepare evidence to prove the grounds relied upon.
4. Then you must attend a court hearing for a Judge to hear the evidence and decide whether to make an order for possession and a judgment for any arrears of rent.

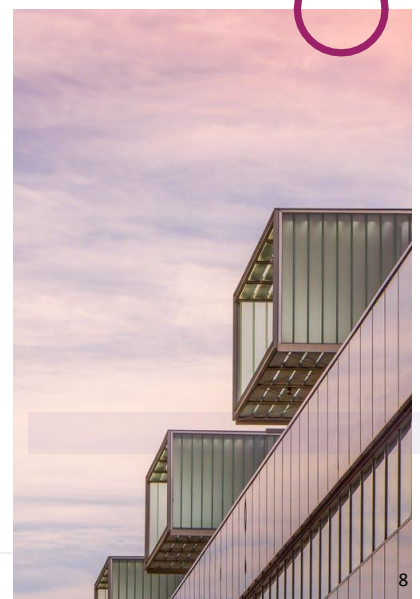


# The Judges View

As the ultimate outcome of your situation will depend upon the Judge's view of the situation.

A large number of the grounds under the Act are discretionary and even if proved the Judge may exercise his discretion not to make an order for possession.

Therefore, it is important that the correct requirements are met by a private landlord in order to recover possession of your property as soon as reasonably possible with the minimum of expense and loss of rent.



# Ackroyd Legal

**If you are in any doubt as to the best way to recover your property, then contact one of our specialists.**

**<https://www.ackroydlegal.com/our-services/commercial-property/>**

